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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/356,260	07/16/1999	ALFONS EIZENHOFER	7-2-1	7579
49472	7590	11/28/2006	EXAMINER	
AGERE LERNER, DAVID et al. 600 SOUTH AVENUE WEST WESTFIELD, NJ 07090			ART UNIT	PAPER NUMBER

DATE MAILED: 11/28/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Notification of Non-Compliant Appeal Brief (37 CFR 41.37)</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	09/356,260	EIZENHOFER ET AL.	

<b>Examiner</b>	<b>Art Unit</b>	
Kandasamy Thangavelu	2123	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

The Appeal Brief filed on 18 May 2006 is defective for failure to comply with one or more provisions of 37 CFR 41.37.

To avoid dismissal of the appeal, applicant must file an amended brief or other appropriate correction (see MPEP 1205.03) within **ONE MONTH or THIRTY DAYS** from the mailing date of this Notification, whichever is longer.

**EXTENSIONS OF THIS TIME PERIOD MAY BE GRANTED UNDER 37 CFR 1.136.**

1.  The brief does not contain the items required under 37 CFR 41.37(c), or the items are not under the proper heading or in the proper order.
2.  The brief does not contain a statement of the status of all claims, (e.g., rejected, allowed, withdrawn, objected to, canceled), or does not identify the appealed claims (37 CFR 41.37(c)(1)(iii)).
3.  At least one amendment has been filed subsequent to the final rejection, and the brief does not contain a statement of the status of each such amendment (37 CFR 41.37(c)(1)(iv)).
4.  (a) The brief does not contain a concise explanation of the subject matter defined in each of the independent claims involved in the appeal, referring to the specification by page and line number and to the drawings, if any, by reference characters; and/or (b) the brief fails to: (1) identify, for each independent claim involved in the appeal and for each dependent claim argued separately, every means plus function and step plus function under 35 U.S.C. 112, sixth paragraph, and/or (2) set forth the structure, material, or acts described in the specification as corresponding to each claimed function with reference to the specification by page and line number, and to the drawings, if any, by reference characters (37 CFR 41.37(c)(1)(v)).
5.  The brief does not contain a concise statement of each ground of rejection presented for review (37 CFR 41.37(c)(1)(vi))
6.  The brief does not present an argument under a separate heading for each ground of rejection on appeal (37 CFR 41.37(c)(1)(vii)).
7.  The brief does not contain a correct copy of the appealed claims as an appendix thereto (37 CFR 41.37(c)(1)(viii)).
8.  The brief does not contain copies of the evidence submitted under 37 CFR 1.130, 1.131, or 1.132 or of any other evidence entered by the examiner **and relied upon by appellant in the appeal**, along with a statement setting forth where in the record that evidence was entered by the examiner, as an appendix thereto (37 CFR 41.37(c)(1)(ix)).
9.  The brief does not contain copies of the decisions rendered by a court or the Board in the proceeding identified in the Related Appeals and Interferences section of the brief as an appendix thereto (37 CFR 41.37(c)(1)(x)).
10.  Other (including any explanation in support of the above items): \_\_\_\_\_



PAUL RODRIGUEZ  
EXAMINER  
TECHNOLOGY CENTER 2100  
11/24/08

## **DETAILED ACTION**

### ***Introduction***

1. This communication is in response to the Applicants' Appeal Brief dated May 18, 2006.

### ***Defective Appeal Brief***

2. In the appeal brief of May 18, 2006 the "summary of claimed subject matter" is not properly set forth as required by 37 CFR § 41.37(c) (1) (v). Therefore, the Board of Patent Appeals and Interferences has returned the Appeal Brief and the Examiner's Answer as defective and has directed submission of the Appeal Brief and the Examiner's answer meeting the requirements of 37 CFR 41.37(c) (1) (v).

### ***Appeal Brief Required in 37 CFR 41.37 (c) Format***

3. 37 CFR § 41.37(c) (1) (v) states:

(v) *Summary of claimed subject matter.* A concise explanation of the subject matter defined in each of the independent claims involved in the appeal, which shall refer to the specification by page and line number, and to the drawing, if any, by reference characters. For each independent claim involved in the appeal and for each dependent claim argued separately

Art Unit: 2123

under the provisions of paragraph (c) (1) (vii) of this section, every means plus function and step plus function as permitted by 35 U.S.C. 112, sixth paragraph, must be identified and the structure, material, or acts described in the specification as corresponding to each claimed function must be set forth with reference to the specification by page and line number, and to the drawing, if any, by reference characters.

The disclosure must be mapped to the independent claims, here claims 20, 29, 32, 33 and 34, including specification page and line numbers, and drawing reference characters. The summary contains no explanation of the subject matter of claim 34.

4. A substitute appeal brief that meets the requirements of 37 CFR 41.37(c) (1) (v) and a revised examiner's answer are required.

***Conclusion***

5. Appellant is required to comply with provisions of 37 CFR 41.37(c) (1) (v). To avoid dismissal of the appeal, Appellant must comply with the provisions of 37 CFR 41.37(c) within ONE MONTH or THIRTY DAYS, whichever is longer, from the mailing of this communication. Extensions of time may be granted under 37 CFR 1.136.

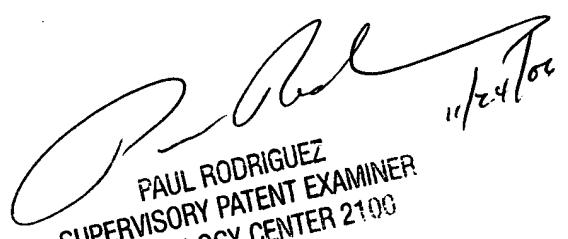
6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dr. Kandasamy Thangavelu whose telephone number is 571-272-3717. The examiner can normally be reached on Monday through Friday from 8:00 AM to 5:30 PM.

Art Unit: 2123

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Paul Rodriguez, can be reached on 571-272-3753. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to TC 2100 Group receptionist: 571-272-2100.

K. Thangavelu  
Art Unit 2123  
November 22, 2006



PAUL RODRIGUEZ  
SUPERVISORY PATENT EXAMINER  
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11/24/06